

TITLE 327 WATER POLLUTION CONTROL BOARD

(This highlighted version of the draft rule highlights changes since the May 8, 2002 first public hearing on this rule)

DRAFT RULE #01-96(WPCB)

This rulemaking is being initiated due to the new federal Phase II program regulations for storm water discharges. The National Pollutant Discharge Elimination System (NPDES) storm water Phase II final rule was published on December 8, 1999, at 64 FR 68722. It requires NPDES permit coverage, mostly under general permits, for storm water discharges from regulated municipal separate storm sewer systems (MS4s) primarily located in urbanized areas. Operators of MS4s located within a listed area will be designated into the Phase II program by the state. Therefore, the new rule 13 language under Article 15 adds the federal Phase II requirements, and rule language in Article 5 will be revised to reflect this change. Thus this rulemaking amends 327 IAC 5-4-6 and adds 327 IAC 15-13-1 through 327 IAC 15-13-22. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: April 1, 2001, Indiana Register (24 IR 2244).

Second Notice of Comment Period and Notice of First Hearing: January 1, 2002 (25 IR 1353).

Preliminary Adoption Hearing: May 8, 2002. Hearing opened and continued to June 12, 2002.

327 IAC 5-4-6

327 IAC 15-13-1

327 IAC 15-13-2

327 IAC 15-13-3

327 IAC 15-13-4

327 IAC 15-13-5

327 IAC 15-13-6

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327 IAC 15-13-19

327 IAC 15-13-20

327 IAC 15-13-21

327 IAC 15-13-22

DRAFT RULE

SECTION 1. 327 IAC 5-4-6 IS AMENDED TO READ AS FOLLOWS:

327 IAC 5-4-6 Storm water discharges

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1

Affected: IC 13-18-4

Sec. 6. (a) The following discharges consisting entirely of storm water are subject to the NPDES program:

- (1) ~~A discharge with respect to which a permit has been issued prior to February 4, 1987.~~
- (2) A discharge which the commissioner determines contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the state **or a regulated municipal separate storm sewer system (MS4) conveyance.**
- (b) ~~Prior to October 1, 1992, a permit shall not be required for a discharge composed entirely of storm water, except the following:~~
 - (1) ~~A discharge with respect to which a permit has been issued prior to February 4, 1987.~~
 - (2) ~~A discharge associated with exposed to categories of industrial activity specified in 327 IAC 15-6-2.~~
 - (3) ~~A discharge from a large municipal separate storm sewer system serving a population of two hundred fifty thousand (250,000) or more: associated with construction or land disturbing activities, which disturb one (1) or more acres of land. Included in these activities are disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale as defined in 327 IAC 15-5-4(15)(20) if the larger common plan will ultimately disturb one (1) or more acres of land.~~
 - (4) ~~A discharge from a medium municipal separate storm sewer system MS4 conveyance serving a municipal population of one hundred thousand (100,000) seven thousand (7,000) or more. Discharges from municipal street department conveyances and operational areas within the designated area are included. but less than two hundred fifty thousand (250,000);~~
 - (5) ~~A discharge from an municipality's municipal separate storm sewer system MS4 conveyance that has been designated for storm water permit coverage by its location within an urbanized area as determined by a the 1990 or 2000 Decennial Census map by the United States Census Bureau. Discharges from municipal street department conveyances and operational areas within the designated area are included.~~
 - (6) ~~A discharge from a county, or portion of a county, municipal separate storm sewer system MS4 conveyance that has been designated for storm water permit coverage by its location within an urbanized area as determined by a the 1990 or 2000 Decennial Census map by the United States Census Bureau. Discharges from county highway~~

department conveyances and operational areas within the designated area are included.

(5) (7) A discharge which the commissioner determines contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the state from a **municipal separate storm sewer system MS4 conveyance** serving a university, college, military base, hospital, or correctional facility population of one thousand (1,000) or more, and located within a regulated municipality or county as determined by subsection (a)(4), (5) or (6) of this rule.

(8) A discharge associated with the state department of transportation (DOT), **municipal street department, and county highway department conveyances and operational areas, which is located within a regulated municipality or county as determined by subsection (a)(4), (5) or (6) of this rule. Except for discharges associated with state department of transportation conveyances and operational areas, discharges requiring NPDES permit coverage under this subsection may be covered under a NPDES permit for discharges regulated by subsection (a)(4), (5) or (6) of this rule.**

(e) (b) The commissioner shall not, under this section, require a permit for discharges of storm water runoff **run-off** from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows **which are** from conveyances or systems of conveyances (including, but not limited to, pipes, conduits, ditches, and channels) used for collecting and conveying precipitation **runoff run-off** and which are not contaminated by contact with, or do not come into contact with any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations.

(c) For discharges from **municipal separate storm sewer systems MS4 conveyances** subject to regulation under 40 CFR 122.26(a)(3)(i), an individual NPDES permit is required.

(d) The following are requirements **For large and medium municipal separate storm sewer systems MS4 discharges subject to an obtaining individual NPDES permits and to the extent achievable under the discharger's authority, the permit must contain the minimum requirements set forth in 327 IAC 15-13-4 through 327 IAC 15-13-18:**

(1) Permits must be obtained for all discharges from large and medium municipal separate storm sewer systems.

(2) The commissioner may either issue one (1) system wide permit covering all discharges from municipal separate storm sewers within a large or medium municipal storm sewer system or issue distinct permits for appropriate categories of discharges within a large or medium municipal separate storm sewer system including, but not limited to:

- (A) all discharges owned or operated by the same municipality;
- (B) located within the same jurisdiction;
- (C) all discharges within a system that discharges to the same watershed;
- (D) discharges within a system that are similar in nature; or
- (E) individual discharges from municipal separate storm sewers within the system.

(3) The operator of a discharge from a municipal separate storm sewer which is part of a large or medium municipal separate storm sewer system must do any of the following:

(A) Participate in a permit application (to be a permittee or a copermittee) with one (1) or more other operators of discharges from the large or medium municipal storm sewer system which covers all, or a portion of all, discharges from the municipal separate storm sewer system.

(B) Submit a distinct permit application which only covers discharges from the municipal separate storm sewers for which the operator is responsible.

(C) A regional authority may be responsible for submitting a permit application under the following guidelines:

(i) The regional authority together with coapplicants shall have authority over a storm water management program that is in existence, or shall be in existence at the time Part 1 of the application is due.

(ii) The permit applicant or coapplicants shall establish their ability to make a timely submission of Part 1 and Part 2 of the municipal application.

(iii) Each of the operators of large or medium municipal separate storm sewers shall comply with the application requirements of 40 CFR 122.26(d).

(4) One (1) permit application may be submitted for all or a portion of all municipal separate storm sewers within adjacent or interconnected large or medium municipal separate storm sewer systems. The commissioner may issue one (1) system wide permit covering all or a portion of all municipal separate storm sewers in adjacent or interconnected large or medium municipal separate storm sewer systems.

(5) Permits for all or a portion of all discharges from large or medium municipal separate storm sewer systems that are issued on a system wide, jurisdiction wide, watershed, or other basis may specify different conditions relating to different discharges covered by the permit, including different management programs for different drainage areas which contribute storm water to the system.

(6) Copermitees need only comply with permit conditions relating to discharges from the municipal separate storm sewers for which they are operators.

Individual NPDES permit conditions for the categories listed in subsection (a) shall, at a minimum, and to the extent achievable under the discharger's authority, contain the requirements, applicable to each category, as set forth in rules 5, 6, and 13 of this article. The individual NPDES permit may also contain any additional requirements deemed necessary to meet water quality standards.

(e) For storm water discharges exposed to the categories of industrial activity specified in 327 IAC 15-6-2 and subject to an individual NPDES permit, the permit must contain the minimum requirements set forth in 327 IAC 15-6-3 through 327 IAC 15-6-9, 327 IAC 15-6-11, and 327 IAC 15-6-12.

(1) In addition to meeting the requirements of 40 CFR 122.26(c), an operator of a storm

water discharge associated with industrial activity which discharges through a large or medium municipal separate storm sewer system shall submit, to the operator of the municipal separate storm sewer system receiving the discharge no later than May 15, 1991, or one hundred eighty (180) days prior to commencing such discharge, the following:

(A) The name of the facility:

(B) A contact person and phone number:

(C) The location of the discharge:

(D) A description, including Standard Industrial Classification, which best reflects the principal products or services provided by each facility:

(E) Any existing NPDES permit number:

(2) In cases where the industrial activity consists of construction activity which disturbs five (5) acres or more of ground, information equivalent to that required by subdivision (1) and 327 IAC 15-5-5 shall be submitted to the operator of the municipal separate storm sewer system receiving the discharge prior to the initiation of the land disturbing activities:

Storm water run-off discharged into a combined sewer system is not subject to the provisions of this section.

~~(f) The commissioner may issue permits for municipal separate storm sewers that are designated under subsection (b)(5) on a system wide basis, jurisdiction wide basis, watershed basis, or other appropriate basis, or may issue permits for individual discharges.~~ **For storm water discharges associated with construction or other land disturbing activities which disturb one (1) or more acres of land, and are subject to an individual NPDES permit, the permit must contain the minimum requirements set forth in 327 IAC 15-5-3 through 327 IAC 15-5-12.**

~~(g) For storm water discharges associated with industrial activity from point sources which discharge through a nonmunicipal or nonpublicly owned separate storm sewer system, the commissioner may issue a single NPDES permit, with each discharger a copermitttee to a permit issued to the operator of the portion of the system that discharges into waters of the state, or individual permits to each discharger of storm water associated with industrial activity through the nonmunicipal conveyance system.~~ **referenced in subsections (d) through (f), the permit must also contain any language deemed necessary by the commissioner to ensure compliance with the water quality standards established in 327 IAC 2-1-6(a)(1) or, as applicable, 327 IAC 2-1.5-8(b)(1).**

(1) All storm water discharges associated with industrial activity that discharge through a storm water discharge system that is not a municipal separate storm sewer must be covered by an individual permit, or a permit issued to the operator of the portion of the system that discharges to waters of the state, with each discharger to the nonmunicipal conveyance a copermitttee to that permit:

(2) Where there is more than one (1) operator of a single system of such conveyances, all operators of storm water discharges associated with industrial activity must submit applications:

(3) Any permit covering more than one (1) operator shall identify the effluent limitations, or other permit conditions, if any, that apply to each operator:

(h) Conveyances that discharge storm water runoff **run-off** combined with municipal sewage are point sources that must obtain NPDES permits in accordance with the procedures of 40 CFR 122.21 and are not subject to the provisions of this section.

(i) (f) Whether a discharge from a municipal separate storm sewer **an MS4 conveyance** is, or is not, subject to regulation under this section shall have no bearing on whether the owner or operator of the discharge is eligible for funding under Title II, Title III, or Title VI of the CWA.

(j) (g) Terms as used in this section have the same meaning as defined under 40 CFR 122.26(b), **327 IAC 15-5-4, 327 IAC 15-6-4, or 327 IAC 15-13-5.** (*Water Pollution Control Board; 327 IAC 5-4-6; filed Sep 24, 1987, 3:00 p.m.: 11 IR 644; filed Feb 26, 1993, 5:00 p.m.: 16 IR 1764*)

SECTION 2. 327 IAC 15-13 IS ADDED TO READ AS FOLLOWS:

Rule 13. Storm Water Run-off Associated with municipal separate storm sewer systems

327 IAC 15-13-1 Purpose

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 1. The purpose of this rule is to minimize pollutants resulting from storm water discharges from **municipal separate storm sewer system (MS4) conveyances.** (*Water Pollution Control Board; 327 IAC 15-13-1*)

327 IAC 15-13-2 Applicability

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 2. This rule applies to an entity that:

- (1) is not required to obtain an individual NPDES permit under 327 IAC 5-4-6(c) or 327 IAC 15-2-9(b);**
- (2) meets the general permit rule applicability requirements under 327 IAC 15-2-3;**
- (3) does not have coverage under an individual MS4 permit; and**
- (4) operates, maintains, or otherwise has responsibility for an MS4 conveyance within a designated MS4 area.**

(*Water Pollution Control Board; 327 IAC 15-13-2*)

327 IAC 15-13-3 MS4 area designation criteria

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 3. (a) An entity that meets one (1) of the following is designated for permit coverage under this rule:

(1) Located within, or contiguous to, a mapped 1990 or 2000 United States Census Bureau urbanized area (UA) and is:

(A) a municipality, regardless of its United States Census Bureau population; or

(B) a university, college, military base, hospital, or correctional facility with a full-time equivalent enrollment, daily user population, or bed count occupancy (based on the most recent enrollment count, or population data) greater than or equal to one thousand (1,000).

(2) A county, or portion of a county, delineated by political township or section, township, and range boundaries that contains a mapped UA. Only the portion of the county that is within the mapped UA must be regulated.

(3) A documented significant contributor of pollutants to waters of the state or a regulated MS4 area.

(4) A municipality with a population density, according to 2000 United States Census Bureau data, of five hundred (500) people per square mile or greater and United States Census Bureau population of ten thousand (10,000) or more.

(5) A municipality with a population density, according to 2000 United States Census Bureau data, of five hundred (500) people per square mile or greater, United States Census Bureau population greater than seven thousand (7,000) and less than ten thousand (10,000) and having a positive, ten (10) year population growth percentage greater than or equal to ten percent (10%).

(6) A municipality with a population density, according to 2000 United States Census Bureau data, of five hundred (500) people per square mile or greater, United States Census Bureau population greater than seven thousand (7,000) and less than ten thousand (10,000) and having a university or college full-time equivalent enrollment, military base population, hospital bed count occupancy, or correctional facility daily user population (based on the most recent enrollment, count, or population data) that places the total population greater than or equal to ten thousand (10,000).

(7) A university, college, military base, hospital, or correctional facility with a full-time equivalent enrollment, daily user population, or bed count occupancy greater than or equal to one thousand (1,000), located within a designated municipality, and having responsibility for a storm water conveyance.

(b) ~~The following criteria may be used to designate an entity not designated under subsection (a) for permit coverage under this rule:~~

~~(1) An entity outside of a mapped UA may be designated if its discharge is into a sensitive water, regardless of its total population or population density. As Total Maximum Daily Load (TMDL) allocations, or similar studies, are conducted, additional entities may be designated.~~

~~(2) An entity outside of a mapped UA may be designated if other environmental or water quality programs are ineffective in protecting water quality concerns.~~

An entity outside of a mapped UA not already designated under subsection (a) may be designated for permit coverage if its discharge is to a sensitive water or if other environmental programs are not adequately protecting water quality.

(c) Once an entity is designated under this section, it remains designated until ~~the five (5) year term for the in-effect permit has been reached the expiration of its permit.~~ During the reapplication process, An entity may petition the department to remove itself from permit coverage under this rule based on documented reductions in population, population density, occupancy, or enrollment that result in numbers below minimum designation criteria. This petition is only allowed for entities located outside of mapped UA areas.

(d) The department shall notify entities ~~known to meet~~ meeting the designation criteria of this section in writing.

(e) ~~An entity not initially designated which later meets any of the designation criteria shall apply for a permit under this rule in accordance with section 9(e).~~

(f) A designated entity subject to this rule is also subject to the requirements of 327 IAC 15-2-9(b) and may be required to obtain an individual NPDES permit. (*Water Pollution Control Board; 327 IAC 15-13-3*)

327 IAC 15-13-4 General permit boundary

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 4. (a) This general permit covers Indiana.

(b) For each MS4 entity, the permit covers all storm water **discharges from** conveyance systems and storm water drainage areas for which it has jurisdiction, or, in the case of designated counties, the portion of the county jurisdictional area depicted in a mapped UA, unless appropriate written, enforceable, legal documentation has been obtained to allow another entity to have permit responsibilities for systems and areas within another entity's jurisdiction. (*Water Pollution Control Board; 327 IAC 15-13-4*)

327 IAC 15-13-5 Definitions

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-11-2; IC 13-18-4; IC 14-32

Sec. 5. ~~In addition to definitions contained in IC 13-11-2~~ For purposes of this rule, the following definitions apply ~~throughout this rule~~:

(1) “Best management practice” or “BMP” means any structural or nonstructural control measure utilized to improve the quality and, as appropriate, reduce the quantity of storm water run-off. The term includes schedules of activities, prohibitions of practice, treatment requirements, operation and maintenance procedures, use of containment facilities, land-use planning, policy techniques and other management practices.

(2) “Buffer strip” means an existing, variable width strip of vegetated land intended to protect water quality and terrestrial and aquatic habitat in an adjacent resource or area.

(3) “Canine park” means a designated public location where dogs are restricted and animal waste may accumulate. For the purposes of this rule, the term does not include kennels, municipal dog impoundments, or humane society buildings.

(4) “Class V injection well” means a type of well, which typically has a depth greater than its largest surface dimension, emplaces fluids into the subsurface, and does not meet the definitions of Class I through Class IV wells as defined under 40 CFR 146.5. While the term includes ~~septic systems which that serve more than one (1) single-family dwelling~~, dug wells, bored wells, improved sinkholes, french drains, infiltration sumps, ~~septic systems~~ and infiltration galleries, it does not include surface impoundments, trenches, or ditches that are wider than they are deep.

(5) “Combined sewer” means a sewer ~~that is designed, and employed to receive both water-carried or liquid wastes and storm or surface water constructed, and used to receive and transport combined sewage.~~

(6) “Combined sewer ~~overflow~~ operational plan” or “CSOOP” means a ~~written plan describing how a combined sewer system municipality will implement nine (9) minimum control measures identified in United States Environmental Protection Agency’s 1994 National combined sewer overflow policy that contains the minimum technology controls applicable to, and requirements for operation and maintenance of, a combined sewer system:~~

(A) before;

(B) during; and

(C) upon completion of;

~~the implementation of a long term control plan.~~

- (7) “Commissioner” means refers to the commissioner of the department of environmental management or the designated agent of the commissioner.
- (8) “Constructed wetland” means a manmade shallow pool that creates growing conditions suitable for wetland vegetation and is designed to maximize pollutant removal.
- (9) “Contiguity” means an entity’s proximity to a designated MS4 area in such a way that it allows for direct discharges of storm water run-off into the regulated MS4 conveyance.
- (10) “Conveyance” means any structural process for transferring storm water between at least two (2) points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.
- (11) “Daily user population” means a population for an entity that is present at that location on a daily basis.
- (12) “Dechlorinated swimming pool discharge” means chlorinated water that has either sat idle for seven (7) days following chlorination prior to discharge to the MS4 conveyance, or, by analysis, does not contain detectable concentrations (less than five hundredths (0.05) milligram per liter) of chlorinated residual.
- (13) “Department” means refers to the Indiana department of environmental management.
- (14) “Detention basin” means a type of storage practice used to detain or slow storm water run-off and then release it through a positive outlet.
- (15) “Disposal” has the meaning set forth at IC 13-11-2-57(a) means the following:
- (A) discharge;
 - (B) deposit;
 - (C) injection;
 - (D) spilling;
 - (E) leaking; or
 - (F) placing;
- of any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste, or any constituent of the waste, may enter the environment, be emitted into the air, or be discharged into any waters, including ground waters.
- (16) “Dry well” means a type of infiltration practice that allows storm water run-off to flow directly into the ground via a bored or otherwise excavated opening in the ground surface.
- (17) “Entity” means a public or private body that owns, operates, or maintains a storm water conveyance system, including a transportation agency operated by that body. The term can also include federal, state, city, town, county, district, association, or township public bodies, and privately owned universities or colleges.

For the purposes of this rule, the term does not include non-entity owned shopping malls, office parks, apartment complexes, golf courses, churches, or hotels.

(18) “Filter strip” means a type of vegetative practice used to filter storm water run-off through the use of planted, or existing vegetation near disturbed or impervious surfaces.

(19) “Floatable” means any solid waste that, due to its physical characteristics, will float on the surface of water. For the purposes of this rule, the term does not include naturally occurring floatables, such as leaves or tree limbs.

(20) “Flood plain” means the area adjoining a river, stream, or lake that is inundated by the base flood as determined by 312 IAC 10.

(21) “Floodway” means the channel of a river or stream and those portions of the flood plain adjoining the channel that are reasonably required to efficiently carry and discharge the peak flow from the base flood as determined by 312 IAC 10.

(22) “Full-time equivalent enrollment” means a college or university enrollment of undergraduate students currently taking fifteen (15) credit hours of course work and graduate or professional students currently taking twelve (12) credit hours of course work. Each fifteen (15) or twelve (12) credit hours of course work equals one (1) full-time equivalent.

(23) “Garbage” ~~has the meaning set forth at IC 13-11-2-88~~ means all putrescible animal solid, vegetable solid, and semisolid wastes resulting from the:

- (A) processing;
- (B) handling;
- (C) preparation;
- (D) cooking;
- (E) serving; or
- (F) consumption

of food or food materials.

(24) “General permit rule boundary” means an area based upon existing geographic or political boundaries indicating the area within which an MS4 conveyance affected by this rule is located.

(25) “Grass swale” means a type of vegetative practice used to filter storm water runoff via a vegetated, shallow-channel conveyance.

(26) “Ground water” means such accumulations of underground water, natural or artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this state. The term does not include manmade underground storage or conveyance structures.

(27) “Household hazardous waste” or “HHW” means solid waste generated by households that:

- (A) is ignitable, as defined under 40 CFR 261.21;
- (B) is toxic, as defined under 40 CFR 261.24;

- (C) is reactive, as defined under 40 CFR 261.23;
 - (D) is corrosive, as defined under 40 CFR 261.22; or
 - (E) otherwise poses a threat to human health or the environment.
- (28) “Hydrologic unit code” or “HUC” means a numeric United States Geological Survey code that corresponds to a watershed area. Each area also has a text description associated with the numeric code.
- (29) “Illicit discharge” means any discharge to an MS4 conveyance that is not composed entirely of storm water, except naturally occurring floatables, such as leaves or tree limbs. Sources of illicit discharges include sanitary wastewater, septic tank effluent, car wash wastewater, oil disposal, radiator flushing disposal, laundry wastewater, roadway accident spillage, and household hazardous wastes.
- (30) “Impervious surface” means any surface that prevents storm water to readily infiltrate into the soils.
- (31) “Individual NPDES permit” means an NPDES permit issued to one (1) MS4 operator that contains requirements specific to that MS4 conveyance.
- (32) “Infiltration basin or trench” means a type of infiltration practice used to filter storm water run-off into soils via the use of installed structures with porous material.
- (33) “Infiltration gallery” means a type of infiltration practice used to filter storm water run-off into soils that utilizes one (1) or more vertical pipes leading to a horizontal, perforated pipe laid within a trench, often backfilled with gravel or some other permeable material.
- (34) “Infiltration practices” means any structural BMP designed to facilitate the percolation of run-off through the soil to ground water. Examples include infiltration basins or trenches, dry wells, and porous pavement.
- (35) “Initial receiving water” means a water that is the direct recipient of a discharge from an MS4 area after the discharge passes through another MS4 conveyance.
- (36) “Legally binding agreement ~~or contract~~” means a written, enforceable legal document used to describe responsibilities between joint permittees or other entities.
- (37) “Load allocation” means the portion of a receiving water body’s loading capacity that is attributed either to one (1) of its existing or future nonpoint sources of pollution or to natural background sources.
- (38) “Long term control plan” or “LTCP” means a ~~written plan to describe how a combined sewer system municipality will address nine (9) elements identified in United States Environmental Protection Agency’s 1994 National combined sewer overflow policy. that:~~
- (A) is consistent with the federal Combined Sewer Overflow Control Policy (59 FR 18688);

(B) is developed in accordance with the recommendations set forth in Combined Sewer Overflows Guidance for Long-Term Control Plan (EPA 832B95002);

(C) describes changes and improvements to be made to a combined sewer system or to a publicly owned wastewater treatment plant for the purpose of meeting the requirements of the federal Clean Water Act and state law.

(D) is developed with public participation using a process that is designed to promote active involvement by the affected public, through opportunities to provide in the decision making to select long term control alternatives:

(i) information;

(ii) opinions; and

(iii) comments;

(E) is submitted to the department for approval; and

(F) does the following:

(i) Uses characterization, monitoring, and modeling of the combined sewer system to determine:

(AA) the response of the combined sewer system to various precipitation events;

(BB) the characteristics of overflows from the combined sewer system; and

(CC) the water quality impacts that result from overflows from the combined sewer system.

(ii) Considers the impact of combined sewer overflows on sensitive areas and gives highest priority to controlling overflows in those areas.

(iii) Contains an evaluation of a reasonable range of control alternatives, taking into account expected and projected future growth.

(iv) Contains cost and performance analyses of the control alternatives evaluated.

(v) Maximizes treatment of wet weather flows at a publicly owned treatment works (POTW) treatment plant.

(vi) Contains a practicable implementation schedule for the selected control alternative.

(vii) Contains a postconstruction compliance monitoring program adequate to ascertain:

(AA) the effectiveness of the selected control alternative; and

(BB) the extent to which water quality standards have been attained.

(39) “Minimum control measure” or “MCM” means the minimum measures required by this rule to ensure that, once implemented, storm water discharges do not cause a violation of ~~quality meets~~ the narrative water quality standards

described in 327 IAC 2-1-6(a)(1), or, as applicable, 327 IAC 2-1.5-8(b)(1). There are currently six (6) MCMs that include the following:

- (A) Public education and outreach.
- (B) Public participation and involvement.
- (C) Illicit discharge detection and elimination.
- (D) Construction site run-off control.
- (E) **Postconstruction** run-off control.
- (F) Pollution prevention and good housekeeping.

(40) “MS4 area” means a land area comprising one (1) or more places that receives coverage under one (1) NPDES storm water permit regulated by this rule or 327 IAC 5-4-6(a) and (c).

(41) “MS4 operator” **or “operator”** means the person responsible for development, implementation, or enforcement of the MCMs for a designated MS4 area.

(42) “Municipal separate storm sewer system” or “MS4” means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains, that is:

(A) owned or operated by a:

- (i) federal, state, city, town, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over storm water, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under Section 208 of the Clean Water Act (33 U.S.C. 1288) that discharges into waters of the state; or
- (ii) privately owned utility, university or college having jurisdiction over storm water that discharges into waters of the state;

(B) designed or used for collecting or conveying storm water;

(C) not a combined sewer; and

(D) not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

(43) “Municipal, state, federal, or institutional refueling area” means an operating gasoline or diesel fueling area whose primary function is to provide fuel to either municipal, state, federal, or institutional equipment or vehicles.

(44) “Mutual drain” means a drainage system that:

(A) is located on two (2) or more tracts of land that are under different ownership;

(B) was established by the mutual consent of all the owners; and

(C) was not established under or made subject to any drainage statute.

- (45) “Nonpoint source” means a source of water pollution that does not meet the definition of point source. The term includes in-place pollutants, direct wet and dry deposition, ground water inflow, and overland run-off.
- (46) “Notice of deficiency letter” or “NOD letter” means a written notification from the department indicating an entity’s deficiencies in their NOI letter or SWQMP submittals.
- (47) “Notice of intent letter” or “NOI letter” means a written notification indicating an entity’s intention to comply with the terms of this rule in lieu of applying for an individual NPDES permit and includes information as required under sections 6 and 9 of this rule. It is the application for obtaining permit coverage under this rule.
- (48) “Notice of sufficiency letter” or “NOS letter” means a written notification from the department indicating that an entity has sufficiently provided the required information in their NOI letter or SWQMP submittals.
- (49) “Notice of termination letter” or “NOT letter” means a written notification from the department indicating that an entity has met the conditions to terminate their permit coverage under this rule.
- (50) “Open space” means any land area devoid of any disturbed or impervious surfaces created by industrial, commercial, residential, agricultural, or other manmade activities.
- (51) “Outfall” means a point source discharge via a conveyance of storm water **run-off** into a water of the state.
- (52) “Outfall scouring” means the deterioration of a streambed from an outfall discharge to an extent that the excessive settling of solid material results and suitable aquatic habitat is diminished.
- (53) “Point source” means any discernible, confined, and discrete conveyance, including a pipe, ditch, channel, tunnel, conduit, well, or discrete fissure.
- (54) “Pollutant of concern” means any pollutant that has been documented via analytical data as a cause of impairment in any water body, or to another MS4, to which the MS4 discharges.
- (55) “Porous pavement” means a type of infiltration practice to improve the quality and reduce the quantity of storm water run-off via the use of manmade, pervious pavement which allows run-off to percolate through the pavement and into underlying soils.
- (56) “Private drain” means a drainage system that:
- (A) is located on land owned by one (1) person or by two (2) or more persons jointly; and
 - (B) was not established under or made subject to any drainage statute.
- (57) “Programmatic indicator” means any data collected by an MS4 entity that is used to indicate implementation of one (1) or more minimum control measures.

(58) “Qualified professional” means an individual who is trained and experienced in water treatment techniques and related fields as may be demonstrated by state registration, professional certification, experience, or completion of coursework that enable the individual to make sound, professional judgments regarding storm water control or treatment and monitoring, pollutant fate and transport, and drainage planning.

(59) “Rain garden” means a vegetative practice used to alter impervious surfaces, such as roofs, into pervious surfaces for absorption and treatment of rainfall.

(60) “Receiving stream” or “receiving water” means a water body that receives a discharge from an outfall.

(61) “Redevelopment” means alterations of a property that change a site or building in such a way that there is disturbance of one (1) acre or more of land. The term does not include such activities as exterior remodeling.

(62) “Responsible individual” means the person responsible for development, implementation, or enforcement of the MCMs for a designated MS4 area entity.

(63) “Retail gasoline outlet” means an operating gasoline or diesel fueling facility whose primary function is the resale of fuels. The term applies to facilities that create five thousand (5,000) or more square feet of impervious surfaces, or generate an average daily traffic count of one hundred (100) vehicles per one thousand (1,000) square feet of land area.

(64) “Retention basin” means a type of storage practice, that has no positive outlet, used to retain storm water run-off for an indefinite amount of time. Run-off from this type of basin is removed only by infiltration through a porous bottom or by evaporation.

(65) “Riparian habitat” means a land area adjacent to a water body that supports animal and plant life associated with that water body.

(66) “Riparian zone” means a land area adjacent to a water body that is directly associated with that water body.

(67) “Sand” means mineral material with a size range between two (2) and one-sixteenth (1/16) millimeter diameter.

(68) “Sedimentation” means the settling and accumulation of unconsolidated material carried by storm water run-off.

(69) “Sensitive water” means a water body in need of protection or remediation based on its:

- (A) providing habitat for threatened or endangered species;**
- (B) usage as a public water supply intake;**
- (C) relevant community value; or**
- (D) exceptional use classification as found in 327 IAC 2-1-11(b), outstanding state resource water classification as found in 327 IAC 2-1-2(3) and 327 IAC 2-1.5-19(b).**

(70) “Significant contributor of pollutants” means an entity or industrial facility that contributes pollutants into an MS4 conveyance in such an amount or quality as to impact the MS4 operator’s capability to meet **narrative** water quality standards described in 327 IAC 2-1-6(a)(1), or, as applicable, 327 IAC 2-1.5-8(b)(1).

(71) “Soil and water conservation district” or “SWCD” means a political subdivision established under IC 14-32.

(72) “Solid waste” means any garbage, refuse, **debris, or other discarded material, sludge for a waste treatment plant, sludge from a water supply treatment plant, sludge from an air pollution control facility, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations or from community activities. The term does not include:**

(A) solid or dissolved material in:

(i) domestic sewage; or

(ii) irrigation return flows or industrial discharges;

that are point sources subject to permits under section 402 of the Federal Water Pollution Control Act Amendments (33 U.S.C. 1342);

(B) source, special nuclear, or byproduct material (as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.))

(C) manures or crop residues returned to the soil at the point of generation as fertilizers or soil conditioners as part of a total farm operation; or

(D) vegetative matter at composting facilities registered under IC 13-20-10.

(73) “Spill” means the unexpected, unintended, abnormal, or unapproved dumping, leakage, drainage, seepage, discharge, or other loss of petroleum, hazardous substances, extremely hazardous substances, or objectionable substances. The term does not include releases to impervious surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil.

(74) “Standard Industrial Classification code” or “SIC code” means the four (4) digit code applicable to a particular industrial activity in accordance with the Standard Industrial Classification Manual published by the Office of Management and Budget of the Executive Office of the President of the United States.

(75) “Storage practices” means any structural BMP intended to store or detain storm water and slowly release it to receiving waters or drainage systems. The term includes detention and retention basins.

(76) “Storm drain marking” means any marking procedure that identifies a storm sewer inlet as draining directly to a receiving water body so as to avoid dumping pollutants. The procedures can include painted or cast messages and adhesive decals.

(77) “Storm water” means water resulting from rain, melting or melted snow, hail, or sleet.

(78) “Storm water quality management plan” or “SWQMP” means a comprehensive written document that addresses storm water run-off quality within an MS4 area. The SWQMP is divided into three (3) different submittal parts as follows:

(A) Part A-Initial Application.

(B) Part B-Baseline Characterization Report.

(C) Part C-Program Implementation.

(79) “Stream reach characterization and evaluation report” or “SRCER” means a written report that characterizes and evaluates the pollutant sources on receiving waters from a combined sewer system discharge.

(80) “Total maximum daily load” or “TMDL” means the sum of the daily individual wasteload allocations for point sources and load allocations for nonpoint sources and natural background minus the sum of a specified margin of safety and any capacity reserved for growth. A TMDL sets and allocates the maximum daily amount of a pollutant that may be introduced into a water body and still assure attainment and maintenance of water quality standards.

(81) “Traffic phasing plan” means a written plan that addresses the installation of appropriate pollution prevention practices that is directly related to the land disturbance associated with infrastructure constructed to reroute vehicular traffic within an active construction zone. The term does not include detours that are directed away from the active construction area.

(82) “Urbanized area” or “UA” means a land area comprising one (1) or more places that together have a residential population of at least fifty thousand (50,000) and an overall population density of at least five hundred (500) people per square mile.

(83) “Vegetative practices” means any nonstructural or structural BMP that, with optimal design and good soil conditions, utilizes various forms of vegetation to enhance pollutant removal, maintain and improve natural site hydrology, promote healthier habitats, and increase aesthetic appeal. Examples include grass swales, filter strips, buffer strips, constructed wetlands, and rain gardens.

(84) “Waste transfer station” means a place where solid wastes are segregated for additional off-site processing or disposal.

(85) “Wasteload allocation” means the portion of a receiving stream’s loading capacity that is allocated to one (1) of its existing or future point sources or pollution.

(86) “Water body” means any accumulation of water, surface or underground, natural or artificial, including rivers, streams, creeks, ditches, swales, lakes, ponds, marshes, wetlands, and ground water. The term does not include any storage or treatment structures.

(87) “Watercourse” means the path taken by flowing surface water.

(88) “Watershed” means an area of land from which water drains to a common point.

(89) (A) “Waters of the state” has the meaning set forth at IC 13-11-2-265 means :

(i) the accumulations of water, surface and underground, natural and artificial, public and private; or

(ii) a part of the accumulations of water;

that are wholly or partially within, flow through, or border upon Indiana.

(B) The term does not include:

(i) a private pond; or

(ii) an off-stream pond, reservoir, or facility built for reduction or control of pollution or cooling of water before discharge;

unless the discharge from the pond, reservoir, or facility causes or threatens to cause water pollution.

(90) “Wellhead protection area” has the meaning set forth at 327 IAC 8-4.1-1(27).

(Water Pollution Control Board; 327 IAC 15-13-5)

327 IAC 15-13-6 Notice of intent letter requirements

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 6. (a) The An MS4 operator shall submit an NOI letter with the following information on a state-issued NOI letter, which serves will serve as the permit application:

(1) Name and Contact information of the MS4 operator, as required under subsection (b), who will be responsible for all signatory responsibilities for the MS4 area. If the MS4 operator is not the primary contact individual for implementation of the rule requirements, the name and contact information of the primary individual providing oversight for implementation of this rule for the MS4 area.

(2) List of all known receiving waters or, if the discharge is to another MS4, the name of the MS4 entity and the initial receiving water.

(3) Copy of the completed SWQMP-Part A: Initial Application certification submittal and checklist form.

(4) Proof of publication in the public notice section of a newspaper with the greatest circulation in the affected MS4 area that the MS4 operator is applying for a permit under this rule. The notice must occur one (1) time each week for two (2)

consecutive weeks, and provide a listing of all entities intended to be covered under the permit. This statement must be included in the public notice,

“(Your Entity name and address) intends to discharge storm water into the (text name and numeric code of all 14-digit Hydrologic Unit Code area) watershed(s), and is submitting a Notice of Intent letter to notify

the Indiana Department of Environmental Management of our intent to comply with the requirements under 327 IAC 15-13 to discharge storm water run-off associated with municipal separate storm sewer systems”.

(5) Certification, by completing and signing Appendix A of the ~~state-issued~~ NOI letter, that any applicable, legally binding agreements ~~or contracts~~ between MS4 area entities have been obtained concerning individual responsibilities for implementation of this **rule’s requirements rule**.

(b) The contact information required under subsections (a)(1) and (c)(1) must include the following:

- (1) Name of MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual for each entity.
- (2) Title of the MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual or individuals.
- (3) Entity represented by the MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual or individuals.
- (4) Mailing (and, if different, the physical) address of the MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual or individuals.
- (5) Telephone and facsimile number of the MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual or individuals.
- (6) E-mail address (if available) of MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual or individuals.

(c) The SWQMP-Part A: Initial Application required under subsection (a)(3) must contain the following:

- (1) Written listing of the entities within an MS4 area covered by the NOI letter submittal. The listing must provide the name of each entity, a responsible individual for each entity, and contact information for each entity.
- (2) Written schedule which, as a minimum, adheres to the compliance schedule in section 11 of this rule.
- (3) Written proposed or estimated budget allocation for the MS4 area’s storm water program, with a summary of identified funding sources. When multiple entities are applying under a single NOI letter, the budget allocation must be, at a minimum, separated by entity.

(d) Multiple entities within an MS4 area may submit a single NOI letter provided they comply with the submittal requirements of this section. MS4 operators may utilize materials from existing local or state programs, or partner with an existing individual MS4 permittee, if all parties agree to coordinate responsibilities in accordance with subsection (a)(5).

(e) Multiple entities within an MS4 area may submit a separate NOI letter corresponding to each entity and still share responsibilities for implementation of one (1) or more of the requirements in this rule provided they comply with the submittal requirements of this section and coordinate responsibilities in accordance with subsection (a)(5).

(f) Where multiple entities submit one (1) or more NOI letters based on a watershed delineation and the created MS4 area contains undesignated MS4 entities, the undesignated MS4 entities shall not be subject to the provisions of this rule unless the applicability requirements of section 3(a)(3) or section 3(b) apply.

(g) Where the MS4 operator changes, or where a new operator is added after the submittal of an NOI letter, a new NOI letter must be completed and submitted in accordance with 327 IAC 15-2-8, and sections 6 and 9 of this rule. If no other conditions change except for the name of the operator, a written letter describing the name change and a statement that no other conditions, including those conditions in the SWQMP-Part A: Initial Application and legal agreements, have changed will be sufficient notification to the department.

(h) An MS4 entity within an MS4 area that does not have the legal authority or other regulatory mechanisms to implement one (1) or more of the six (6) minimum control measures required under this rule shall either obtain the legal authority or other regulatory mechanism, or work with a neighboring regulated MS4 entity, via legally binding agreements or contracts, to share responsibilities.

(i) All documents and information required by this section must meet the signatory requirements of 327 IAC 15-4-3(g).

(j) A qualified professional and the MS4 operator shall certify, with the stated paragraph found in 327 IAC 15-4-3(g)(3), a submitted state-issued SWQMP-Part A: Initial Application checklist form.

(k) The department shall review initially submitted NOI letters and SWQMP-Part A: Initial Applications for adequacy, and shall assign each NOI letter an NPDES permit number. Either a written NOD letter requesting additional information, or NOS letter containing the assigned NPDES permit number shall be returned to the MS4 operator within ninety (90) days of the NOI letter submittal. If the MS4 operator does not receive either a NOD letter or NOS letter within ninety (90) days of the NOI letter submittal, the NOI letter and SWQMP-Part A: Initial Application will be considered adequate.

(l) Responses to NOD letters shall be made by the recipient within thirty (30) business days of the date on the NOD letter.

(m) Forms for the NOI letter, SWQMP, annual report, and required certifications shall be provided by the department. (*Water Pollution Control Board; 327 IAC 15-13-6*)

327 IAC 15-13-7 SWQMP-Part B: Baseline Characterization Report

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 7. (a) An MS4 operator shall **characterize assess** the water quality of all known waters of the state that receive storm water outfall discharges within the MS4 area. The water quality **characterization assessment** must utilize existing or new information that may describe the chemical, biological, or physical condition of the MS4 area water quality. **If monitoring is conducted as part of the characterization, the monitoring assessment of receiving waters shall be either at, or in proximity to, all known, or representative, storm water outfall discharges, and may be initiated gradually throughout successive five (5) year permit cycles. If the gradual approach is utilized, the water quality of receiving waters in proximity to all storm water outfalls with a pipe diameter of twelve (12) inches or larger and open ditches with a two (2) foot or larger bottom width must be assessed in the first five (5) year permit term. Subsequent permit terms will require that the water quality at all remaining outfalls be assessed.** This baseline characterization shall include the following:

- (1) An investigation of land usage and assessment of structural and nonstructural storm water BMP locations.
- (2) The identification of known sensitive water areas.
- (3) A review of known existing and available monitoring data of the MS4 area receiving waters, **including, as applicable, data that can be correlated from SRCERs.**
- (4) The identification of areas having a reasonable potential for, or actually, causing storm water quality problems based on the available and relevant chemical, biological, physical, land use, and complaint data.

(b) After the baseline characterization data is collected, an MS4 operator shall evaluate the items in the baseline characterization **which that** are in need of additional protection considerations, or **potentially or actually** are having an **actual or potential** impact on storm water quality in the MS4 area. The report shall include the following:

- (1) Conclusions, such as key observation or monitoring locations in the MS4 conveyances, derived from the land usage investigation.
- (2) Assessment results of BMP locations and, as appropriate, the structural condition of the BMP, related to the BMP's potential or actual effectiveness in improving storm water quality. As appropriate, this assessment shall include recommendations for placement and implementation of additional BMPs within the MS4 area.
- (3) Identification of areas, such as public beaches or surface drinking water sources, within the MS4 area that potentially or actually require added water quality protection considerations.
- (4) As appropriate, any correlative conclusions that can be drawn from a review of available and relevant chemical, biological, physical, land use, and complaint data that assists the MS4 operator in identifying potential or actual storm water quality problem areas.

(5) As appropriate, the identification of areas or sources potentially or actually causing storm water quality problems within the MS4 area.

(c) An SWQMP-Part B: Baseline Characterization Report addressing the items in subsections (a) and (b) must be developed and submitted to the department at the address specified in section 9(b) of this rule. The SWQMP-Part B: Baseline Characterization Report and completed corresponding ~~state-issued~~ certification form must be submitted no later than one hundred eighty (180) days from the submission of the NOI letter.

(d) The department shall review the SWQMP-Part B: Baseline Characterization Report for adequacy, and a written NOS letter or NOD letter ~~may~~ shall be issued to the MS4 operator. If ~~a written NOS letter or NOD letter is not issued~~ no letter is issued within ninety (90) days of submittal, the SWQMP-Part B: Baseline Characterization Report is deemed sufficient.

(e) Responses to NOD letters shall be made by the recipient within thirty (30) ~~business~~ days of the date on the NOD letter.

(f) On-going data collection related to the SWQMP-Part B: Baseline Characterization Report must be submitted to the department ~~at the address specified in section 9(b) of this rule~~ with the corresponding annual report.

(g) A qualified professional and the MS4 operator shall certify, with the stated paragraph found in 327 IAC 15-4-3(g)(3), a submitted ~~state-issued~~ SWQMP-Part B: Baseline Characterization Report checklist form. (*Water Pollution Control Board; 327 IAC 15-13-7*)

327 IAC 15-13-8 Submittal of an SWQMP-Part C: Program Implementation

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 8. (a) An MS4 operator shall develop and implement an SWQMP-Part C: Program Implementation. The SWQMP-Part C: Program Implementation must contain the following:

- (1) An initial evaluation of the storm water program for the MS4 area. This evaluation should include information on all known structural and nonstructural storm water BMPs utilized.
- (2) A detailed program description for each minimum control measure (MCM) referenced in sections 12 through 17 of this rule.
- (3) A timetable for program implementation milestones, which includes milestones for each of the MCMs referenced in sections 12 through 17 of this rule, and applicable SWQMP-Part B: Baseline Characterization Report conclusions (BMP recommendations, additional protective measures for sensitive water areas, and correcting identified water quality problems).
- (4) ~~As appropriate, a~~ schedule for on-going ~~characterization assessment~~ of the receiving waters either at, or in proximity to, outfall locations identified in the

SWQMP-Part B: Baseline Characterization Report to evaluate BMP effectiveness and receiving water quality.

(5) A narrative and mapped description of the MS4 area boundaries, which that indicate responsible entity areas for each MCM. The narrative description must include the specific sectional or, as appropriate, the street name, boundaries of the MS4 area.

(6) An estimate of the linear feet of MS4 conveyances within the MS4 area, segregated by MS4 type, for example, by open ditch or pipe.

(7) A narrative summary of which structural BMP types will be allowed in new development and redevelopment for the MS4 area.

(8) A narrative or tabular summary on storm water structural BMP selection criteria and, where appropriate, associated performance standards that must be met after installation to indicate BMP effectiveness.

(9) A narrative summary of the current storm water budget expected or actual funding source, and a projection of the budget for each year within the five (5) year permit term.

(10) A narrative summary of measurable goals for, at a minimum, each MCM referenced in sections 12 through 17 of this rule. These measurable goals shall demonstrate results that relate to an environmental benefit.

(11) Completed state-issued certification forms, as appropriate, for each MCM.

(12) The identification of programmatic indicators. Programmatic indicators, grouped by corresponding MCM, must include, as applicable, those listed in subsection (b). In addition to those listed in subsection (b), other relevant indicators can be used. If an indicator listed in subsection (b) can not be used, justification must shall be provided. Programmatic indicators do not need to be fully implemented at the time of the SWQMP-Part C: Program Implementation submittal. Updated data for each of these indicators must be submitted in each annual report.

(b) The programmatic indicators must address the following:

(1) Number or percentage of citizens, segregated by type of constituent as referenced in section 12(a) of this rule, that have an awareness of storm water quality issues.

(2) Number and description of meetings, training sessions, and events conducted to involve citizen constituents in the storm water program.

(3) Number or percentage of citizen constituents that participate in storm water quality improvement programs.

(4) Number and location of storm drains marked or cast, segregated by marking method.

(5) Estimated or actual linear feet or percentage of MS4 mapped and indicated on an MS4 area map.

- (6) Number and location of MS4 area outfalls mapped.**
- (7) Number and location of MS4 area outfalls screened for illicit discharges.**
- (8) Number and location of illicit discharges detected.**
- (9) Number and location of illicit discharges eliminated.**
- (10) Number of, and estimated or actual amount of material, segregated by type, collected from, HHW collections in the MS4 area.**
- (11) Number and location of constituent drop-off centers for automotive fluid recycling.**
- (12) Number or percentage of constituents that participate in the HHW collections.**
- (13) Number of construction sites obtaining an MS4 entity-issued storm water run-off permit in the MS4 area.**
- (14) Number of construction sites inspected.**
- (15) Number and type of enforcement actions taken against construction site operators.**
- (16) Number of, and associated construction site name and location for, public informational requests received.**
- (17) Number, type, and location of structural BMPs installed.**
- (18) Number, type, and location of structural BMPs inspected.**
- (19) Number, type, and location of structural BMPs maintained or improved to function properly.**
- (20) Type and location of nonstructural BMPs utilized.**
- (21) Estimated or actual acreage or square footage of open space preserved and mapped in the MS4 area, if applicable.**
- (22) Estimated or actual acreage or square footage of pervious and impervious surfaces mapped in the MS4 area, if applicable.**
- (23) Number and location of new retail gasoline outlets or municipal, state, federal, or institutional refueling areas, or outlets or refueling areas which that replaced existing tank systems that have installed storm water BMPs.**
- (24) Number and location of entity facilities that have containment for accidental releases of stored polluting materials.**
- (25) Estimated or actual acreage or square footage, amount, and location where pesticides, herbicides and fertilizers are applied by a regulated MS4 entity to places where storm water can be exposed within the MS4 area.**
- (26) Estimated or actual linear feet or percentage and location of unvegetated swales and ditches that have an appropriately-sized vegetated filter strip.**
- (27) Estimated or actual linear feet or percentage and location of MS4 conveyances cleaned or repaired.**
- (28) Estimated or actual linear feet or percentage and location of roadside shoulders and ditches stabilized, if applicable.**

(29) Number and location of storm water outfall areas remediated from scouring conditions, if applicable.

(30) Number and location of deicing salt and sand storage areas covered or otherwise improved to minimize storm water exposure.

(31) Estimated or actual amount, in tons, of salt and sand used for snow and ice control.

(32) Estimated or actual amount of material by weight collected from catch basin, trash rack, or other structural BMP cleaning.

(33) Estimated or actual amount of material by weight collected from street sweeping, if utilized.

(34) If applicable, number or percentage and location of canine parks sited at least one hundred fifty (150) feet away from a surface water body.

(c) An SWQMP-Part C: Program Implementation ~~must be submitted to the department at the address specified in section 9(b) of this rule. The SWQMP-Part C: Program Implementation~~ and completed corresponding ~~state-issued~~ certification form must be submitted ~~to the department~~ within three hundred sixty-five (365) days from the date of NOI letter submittal.

(d) The department shall review submitted SWQMP-Part C: Program Implementations for adequacy. Either a written NOD letter requesting additional information, or NOS letter shall be ~~returned sent~~ to the MS4 operator within ninety (90) days of the SWQMP-Part C: Program Implementation submittal. ~~If no letter is issued within ninety (90) days the MS4 operator does not receive either a NOD letter or NOS letter within ninety (90) days of the SWQMP-Part C: Program Implementation of~~ submittal, the plan ~~will be considered adequate is deemed sufficient.~~

(e) Responses to NOD letters must be made by the recipient within thirty (30) ~~business~~ days of the date on the NOD letter.

(f) As conditions or allowed technologies change, the SWQMP-Part C: Program Implementation must be updated. When updates are created, relevant sections of the SWQMP-Part C: Program Implementation containing the updates must be submitted to the commissioner as an attachment to the corresponding annual report.

(g) A qualified professional and the MS4 operator shall certify, with the stated paragraph found in 327 IAC 15-4-3(g)(3), a submitted ~~state-issued~~ SWQMP-Part C: Program Implementation checklist form. (*Water Pollution Control Board; 327 IAC 15-13-8*)

327 IAC 15-13-9 Submittal of an NOI letter and other documents

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4; IC 15-4-3

Sec. 9. (a) All information required under section 6 of this rule must be submitted to the commissioner. An entity that meets the designation criteria under section 3 of this rule

shall submit the NOI letter, SWQMP-Part A: Initial Application, and other required documentation no later than March 10, 2003, unless written permission for a later date has been granted by the commissioner.

(b) A petition, the NOI letter, Parts A, B, and C of the SWQMP, and any other required information must be submitted to:

Indiana Department of Environmental Management
Office of Water Quality, Urban Wet Weather Section
Rule 13 Storm Water Coordinator
100 North Senate Avenue, Room 1255
P.O. Box 6015
Indianapolis, Indiana 46206-6015.

(c) The permit and the compliance schedules of this rule become effective upon receipt of the initial NOI letter by the department.

(d) The commissioner may deny coverage under this rule and require submittal of an application for an individual NPDES permit based on a review of the NOI letter or other information.

(e) An entity that meets the designation criteria of section 3 of this rule after the effective date of this rule, due to changing conditions, ~~for example, increased population,~~ or new facility construction, ~~for example, a newly constructed correctional facility,~~ shall submit the required information under section 6 of this rule, within one hundred eighty (180) days of becoming aware of the relevant changed conditions, or upon the initiation of facility operations, unless written permission for a later date has been granted by the commissioner.

(f) ~~The required information under sections 6 through 8 of this rule, this section, and sections 10 through 20 of this rule is not confidential.~~ (g) Any person who knowingly makes any false statement, representation, or certification in any document submitted or required to be maintained under this rule is subject to ~~the punishment described in~~ 327 IAC 15-4-3(i). (*Water Pollution Control Board; 327 IAC 15-13-9*)

327 IAC 15-13-10 MS4 permit implementation; general requirements

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 10. (a) An MS4 operator shall develop and implement an SWQMP-Part B: Baseline Characterization Report in accordance with section 7 of this rule.

(b) The MS4 operator shall maintain the schedule of compliance in accordance with section 11 in this rule.

(c) The MS4 operator shall develop, implement, and enforce an SWQMP-Part C: Program Implementation in accordance with the requirements of sections 8 and 12 through 17 of this rule.

(d) To the extent of their authority, the MS4 operator shall meet or exceed the following requirements:

(1) Identify and reduce potential sources of pollution that may reasonably be expected to affect the quality of storm water run-off from MS4 areas.

(2) **Assess Characterize** the water quality of outfall discharges and the receiving waters in the MS4 area.

(3) Ensure **compliance with the narrative** that discharges do not cause a violation of water quality standards. ~~described in 327 IAC 2-1-6(a)(1), or, as applicable, 327 IAC 2-1.5-8(b)(1), at all storm water outfall locations and within waters of the state within and the MS4 area. All MS4 area discharges into waters of the state must be free from substances, materials, floating debris, oil, or scum attributable to municipal, industrial, agricultural, and other land use practices, or other discharges that:~~

~~(A) will settle to form putrescent or otherwise objectionable deposits;~~

~~(B) are in amounts sufficient to be unsightly or deleterious;~~

~~(C) produce color, visible oil sheen, odor, or other conditions in such degree as to create a nuisance;~~

~~(D) are in amounts sufficient to be acutely toxic to, or to otherwise severely injure or kill aquatic life, other animals, plants, or humans as described in 327 IAC 2-1-6(a)(1)(D) or, as applicable, 327 IAC 2-1.5-8(b)(1)(E); and~~

~~(E) are in concentrations or combinations that will cause or contribute to the growth of aquatic plants and algae to such degree as to create a nuisance, be unsightly, or otherwise impair the designated uses.~~

(4) Ensure compliance with this rule.

(e) If a total maximum daily load (TMDL) is approved for any water body into which an MS4 conveyance discharges, the MS4 operator must review and appropriately modify Parts B and C of their SWQMP if the TMDL includes requirements for control of storm water discharges under the jurisdiction of the MS4 operator.

(f) All ordinances, or similar regulatory mechanisms, required under this rule must be developed, revised, modified, or implemented no later than two (2) years from the submission of the NOI letter, and in accordance with the compliance schedule specified in section 11 of this rule. (*Water Pollution Control Board; 327 IAC 15-13-10*)

327 IAC 15-13-11 Compliance schedule

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 11. An MS4 operator shall comply with the following schedule for implementation of this rule:

Rule Requirement	Compliance Deadline (from NOI letter submittal date)
Storm Water Quality Management Plan:	Components throughout term of permit
Part A: Initial Application submitted	With NOI letter
Part B: Baseline Characterization Report submitted	180 days
Part C: Program Implementation submitted	1 year
Public Education and Outreach MCM:	Throughout term of permit
Public education and outreach program development and implementation certification submitted	1 year
Public Involvement/Participation MCM:	Throughout term of permit
Public involvement and participation program development and implementation certification submitted	1 year
Illicit Discharge Detection/Elimination MCM:	Throughout term of permit
Illicit discharge plan and ordinance certification submitted	1 year
25 percent of storm water outfalls systems mapped	Each year after 1 year
All known storm water outfall systems, with pipe diameters 12 inches or greater or open ditches with 2 feet or larger bottom width, mapped	5 years
Construction Site Run-Off Control MCM:	Throughout term of permit
Construction site program plan and ordinance certification submitted	1 year
Postconstruction Run-Off Control MCM:	Throughout term of permit
Operational and maintenance plan certification submitted	2 years
Postconstruction program plan and ordinance certification submitted	2 years
Municipal operations pollution prevention and good housekeeping MCM:	Throughout term of permit
Operations pollution prevention program development and implementation certification submitted	1 year

If an MS4 operator is unable to meet a compliance deadline under this section the operator shall submit a written request and justification for extending the deadline. The request must be submitted to the department **at the address specified in section 9(b) of this rule** no later than thirty (30) **business** days prior to the due date. (*Water Pollution Control Board; 327 IAC 15-13-11*)

327 IAC 15-13-12 Storm water quality management plan public education and outreach MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 12. (a) An MS4 operator shall develop an SWQMP that includes methods and measurable goals that will be used to inform residents, visitors, public service employees, commercial and industrial facilities, and construction site personnel within the MS4 area about the impacts polluted storm water run-off can have on water quality and ways they can minimize their impact on storm water quality. The MS4 operator shall ensure, via documentation, that a reasonable attempt was made to reach all constituents within the MS4 area to meet this measure.

(b) MS4 operators are encouraged to utilize existing programs and outreach materials to meet this measure. MS4 operators shall identify and implement an informational program with educational materials for constituents. A **state-issued** certification form shall be completed and submitted to the department once the program has been developed and implemented, or three hundred sixty-five (365) days from the date of NOI letter submittal, whichever is **shorter earlier**.

(c) MS4 operators shall develop measurable goals for this **measure MCM**. An initial assessment of the MS4 area constituents must be conducted to determine initial constituent knowledge and practices as they relate to storm water quality. To comply with this measure, specific target outreach or reduction goal percentages and timetables must be identified. As applicable or, if not applicable, then appropriately justified, goals must address relevant targeted audience improvement in disposal practices, cast storm drain cover installations, school curricula or web site implementation, outreach to every population sector, and educational material distribution.

(d) In combined sewer system municipalities designated under this rule, the current LTCP **will need to shall** be reviewed, and any necessary additions shall be included in the plan to ensure that this MCM requirement is met. (*Water Pollution Control Board; 327 IAC 15-13-12*)

327 IAC 15-13-13 Storm water quality management plan public participation and Involvement MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 13. (a) The MS4 operator shall develop an SWQMP that includes provisions to allow opportunities for constituents within the MS4 area to participate in the storm water management program development and implementation. An MS4 operator shall ensure, via documented efforts, that sufficient opportunities were allotted to involve all constituents interested in participating in the program process to meet this measure. Correctional facilities will not be required to implement the public participation and involvement MCM.

(b) An MS4 entity shall comply with applicable public notice requirements. An MS4 operator shall identify and implement a public participation and involvement program. A **state-issued** certification form shall be completed and submitted to the department once the program has been developed and implemented, or three hundred sixty-five (365) days from the date of NOI letter submittal, whichever is **shorter earlier**.

(c) An MS4 operator shall develop measurable goals for this **measure MCM**. An initial assessment of MS4 area constituents must be conducted to identify interested individuals for participation in the MS4 area storm water program. To comply with this measure, specific outreach and reduction goal percentages and timetables must be identified. As applicable or, if not applicable, then appropriately justified, goals must address relevant community participation in citizen panels, community clean-ups, citizen watch groups and drain marking projects, and public meeting notification.

(d) In combined sewer system municipalities designated under this rule, the current LTCP **will need to shall** be reviewed, and any necessary additions shall be included in the plan to ensure that this MCM requirement is met.

(e) Utilization of the citizens advisory committee required in the LTCP to promote public involvement required by this rule is encouraged. *(Water Pollution Control Board; 327 IAC 327 IAC 15-13-13)*

327 IAC 15-13-14 Storm Water Quality Management Plan Illicit Discharge Detection and Elimination MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 14. (a) An MS4 operator shall develop an SWQMP that includes a commitment to develop and implement a strategy to detect and eliminate illicit discharges to the MS4 conveyance.

(b) An MS4 operator shall develop a storm sewer system map showing the location of all outfalls and MS4 conveyances in the particular MS4 area under the MS4 operator's control and the names and locations of all waters of the state that receive discharges from those outfalls. A map developed under this subsection must meet the following:

(1) As a minimum, longitude and latitude for mapped outfall locations must be done in decimal degrees, or, if a global positioning system is utilized, mapping-grade

accuracy data shall be collected, where an accuracy discrepancy is less than five (5) meters.

(2) The mapping requirement must be developed as follows:

(A) All known outfall conveyance systems with a pipe diameter of twelve (12) inches or larger and open ditches with a two (2) foot or larger bottom width must be mapped within the first five (5) year permit term, according to the following:

(i) After the second year of permit coverage, mapping must depict the location of outfall conveyance systems for at least twenty-five percent (25%) of the MS4 conveyances within the MS4 area.

(ii) For each additional year of the initial permit term, mapping must depict at least an additional twenty-five percent (25%) of the MS4 conveyances.

(B) Subsequent permit terms will require that all remaining outfall conveyance systems are mapped.

(3) The mapping requirements in subdivision (2) do not include private or mutual drains, yard swales that are not maintained by a regulated MS4 entity, or curbs and gutters.

(c) Through an ordinance or other regulatory mechanism, an MS4 operator shall prohibit illicit discharges into MS4 conveyances, **regulate the rate at which water flows through the drainage system**, and establish appropriate enforcement procedures and actions.

(d) An MS4 operator shall develop a plan to detect, address, and eliminate illicit discharges, including illegal dumping, into the MS4 conveyance. This plan **does not** need to **not** address the following categories of nonstorm water discharges or flows, unless the MS4 operator identifies them as significant contributors of pollutants to its MS4 conveyance:

- (1) Water line flushing.
- (2) Landscape irrigation.
- (3) Diverted stream flows.
- (4) Rising ground waters.
- (5) Uncontaminated ground water infiltration.
- (6) Uncontaminated pumped ground water.
- (7) Discharges from potable water sources.
- (8) Foundation drains.
- (9) Air conditioning condensation.
- (10) Irrigation water.
- (11) Springs.
- (12) Water from crawl space pumps.
- (13) Footing drains.
- (14) Lawn watering.
- (15) Individual residential car washing.

- (16) Flows from riparian habitats and wetlands.
- (17) Dechlorinated swimming pool discharges.
- (18) Street wash water.
- (19) Discharges from firefighting activities.

(e) The plan developed under subsection (d) must, at a minimum, locate problem areas via dry weather screening or other means, determine the source, remove or otherwise correct illicit connections, and document the actions taken. The dry weather screening or other means must utilize a field testing kit, or similar method, to analyze for pollutants of concern and other parameters, such as pH, conductivity, or nitrogen-ammonia, used to identify possible pollutant sources. All storm water outfalls in the regulated MS4 area under the MS4 operator's control must be screened for illicit discharges. The screening may be initiated gradually throughout successive five (5) year permit cycles. If the gradual approach is utilized, all storm water outfalls with a pipe diameter of twelve (12) inches or larger and open ditches with a two (2) foot or larger bottom width must be screened in the first five (5) year permit term. Subsequent permit terms will require that all remaining outfalls be screened.

(f) The plan developed under subsection (d) must identify all active industrial facilities within the MS4 area **that discharge into an MS4 conveyance**. This identification shall include the facility name, address, telephone number, and Standard Industrial Classification (SIC) code. Updated information regarding active industrial facilities must be submitted in each annual report.

(g) A **state-issued** certification form must be completed and submitted to the department once the plan has been developed and implemented, or three hundred sixty-five (365) days from the date of NOI letter submittal, whichever is **shorter earlier**.

(h) An MS4 operator shall educate public employees, businesses, and the general public about the hazards associated with illicit discharges and improper disposal of waste. This educational effort shall include the following:

- (1) Informational brochures and guidances for specific audiences and school curricula.
- (2) Publicizing and facilitating public reporting of illicit discharges and spills.
- ~~(3) Coordinating volunteers for locating, and visually inspecting, outfalls or to mark storm drains.~~
- ~~(4) Initiating, or coordinating existing, recycling programs for commonly dumped wastes, such as motor oil, antifreeze, and pesticides.~~

(i) An MS4 operator shall initiate, or coordinate existing, recycling programs in the regulated MS4 area for commonly dumped wastes, such as motor oil, antifreeze, and pesticides.

(j) An MS4 operator shall develop measurable goals for this **measure MCM**. To comply with this measure, specific outreach and reduction percentages and timetables must be identified. At a minimum, goals must address relevant collection system mapping, regulatory

mechanism implementation, employee training, household hazardous waste programs, illicit discharge detection, and illicit discharge elimination.

(k) In combined sewer system municipalities designated under this rule, the current **SR CER**, CSOOP, and LTCP must be reviewed, and any necessary additions must be included in the plans to ensure that this MCM requirement is met.

~~(l) Mapping done to meet the CSOOP requirement of a comprehensive three-dimensional map of the entire collection system and modeling for combined sewer system municipalities with a population greater than ten thousand (10,000) shall satisfy the MCM requirement of this section.~~ (Water Pollution Control Board; 327 IAC 15-13-14)

327 IAC 15-13-15 Storm water quality management plan construction site storm water run-off control MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 15. (a) An MS4 operator shall develop an SWQMP that includes a commitment to develop, implement, manage, and enforce an erosion and sediment control program for construction activities that disturb one (1) or more acres of land within the MS4 area.

(b) Through an ordinance or other regulatory mechanism, the MS4 operator shall establish a construction program that controls polluted run-off from construction **sites activities** with a land disturbance greater than or equal to one (1) acre, or disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale as defined in 327 IAC 15-5-4 ~~(15)~~(20) if the larger common plan will ultimately disturb one (1) or more acres of land. At a minimum, this ordinance or other regulatory mechanism must contain the requirements of 327 IAC 15-5. A ~~state-issued~~ certification form shall be completed and submitted to the department once the ordinance or other regulatory mechanism is developed and a program has been implemented, or three hundred sixty-five (365) days from the date of NOI letter submittal, whichever is **shorter earlier**. Until the MS4 operator program is implemented, NOI letters and construction plans for construction **activities projects** within the MS4 area will be submitted in accordance with 327 IAC 15-5-5 and 15-5-6 to the department and the local SWCD or department of natural resources, division of soil conservation, respectively.

(c) If the MS4 operator has not entered into a written agreement with the local SWCD to review and approve construction site plans or conduct construction site inspections, the MS4 operator shall provide an opportunity to the local SWCD to provide comments and recommendations to the MS4 operator on individual projects. This process may be accomplished by the MS4 operator establishing a local plan review and comment procedure, a project technical review committee, or other mechanism to solicit the input of the local SWCD.

(d) Failure of the SWCD to respond within a predetermined time period should not delay final action of the MS4 operator to approve plans or projects.

(e) In addition to any procedural requirements for submittal to the MS4 operator or designated entity, an NOI letter required under 327 IAC 15-5 must be submitted to the department for any projects within the MS4 area.

(f) The MS4 operator, or a designated entity, shall meet the following:

(1) Develop requirements for the implementation of appropriate BMPs on construction sites to control sediment, erosion and other waste.

(2) Review and approve the construction site plans submitted by the construction site operator before construction and land disturbing activities commence.

(3) Develop procedures for site inspection and enforcement to ensure that BMPs are properly installed.

(4) Establish written procedures to identify priority sites for inspection and enforcement based on, as a minimum, the nature and extent of the construction activity, topography, and the characteristics of soils and receiving water quality.

(5) Develop procedures for the receipt and consideration of public inquiries, concerns, and information submitted regarding local construction activities.

(6) Implement, at a minimum, a written tracking process in which submitted public information, both written and verbal, is documented and then given to appropriate staff for follow-up.

(g) MS4 area personnel responsible for plan review, inspection, and enforcement of construction sites activities shall attend, at a minimum, an annual training session addressing appropriate control measures, which has been approved of by the department and the department of natural resources, division of soil conservation.

(h) An MS4 operator shall develop measurable goals for this measure MCM. To comply with this measure, specific outreach, compliance, and implementation goal percentages and timetables must be identified. At a minimum, goals must address relevant regulatory mechanism implementation, public informational request procedure implementation, site inspection procedure implementation, and construction site operator compliance improvement.

(i) For those construction projects activities operated by the MS4 operator or MS4 municipalities within the MS4 area, construction plans must be submitted to the local SWCD, the department of natural resources, division of soil conservation, or other entity designated by the department for review and approval. If the MS4 operator does not receive either a notice of deficiency or an approval within thirty-five (35) days of the submittal, the plan will be considered adequate. (j) After a one (1) year period of compliance, the MS4 operator or their the designated entity need not submit the plans and may review MS4-operated project construction plans internally with the written authorization of the department of natural resources, division of soil conservation.

~~(k)~~ (j) In addition to the requirements of ~~327 IAC 15-5-7~~ 327 IAC 15-5-6.5, the MS4-operated project construction plans must include a traffic phasing plan for those projects which that have the potential to alter vehicular traffic routes.

~~(h)~~ (k) In addition to the requirements of ~~327 IAC 15-5-8~~ 327 IAC 15-5-6.5(b)(7), the MS4-operated project storm water pollution prevention plan must address the following areas outside of right-of-ways:

- (1) Utility relocation areas.
- (2) Material hauling and transportation routes/roads.
- (3) Borrow pits.
- (4) Temporary staging and material stockpile areas.
- (5) Temporary disposal areas for waste materials.

(Water Pollution Control Board; 327 IAC 15-13-15)

327 IAC 15-13-16 Storm water quality management plan postconstruction storm water run-off control MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 16. (a) An MS4 operator shall develop an SWQMP that includes a commitment to develop, implement, manage, and enforce a program to address discharges of postconstruction storm water run-off from new development and redevelopment areas which that disturb one (1), or more, acre of land, or disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale as defined in 327 IAC 15-5-4~~(15)~~(20) if the larger common plan will ultimately disturb one (1) or more acres of land, within the MS4 area.

(b) Through the use of an ordinance or other regulatory means, an MS4 operator shall implement planning procedures to promote improved water quality. These planning procedures must include, at a minimum, the postconstruction requirements of 327 IAC 15-5-6.5(b)(8). Where appropriate, and to the extent of the MS4 operator's authority, the procedures must also include the following:

- (1) Buffer strip and riparian zone preservation.
- (2) Filter strip creation.
- (3) Minimization of land disturbance and surface imperviousness.
- (4) Minimization of directly connected impervious areas.
- (5) Maximization of open space.
- (6) Directing the community's physical growth away from sensitive areas and toward areas that can support it without compromising water quality.

A state-issued certification form that combines the completed requirements of this subsection and subsection (e) shall be completed and submitted to the department once the ordinance or

other regulatory means has been developed and a program has been implemented, or seven hundred thirty (730) days from the date of NOI letter submittal, whichever is **shorter earlier**.

(c) Where appropriate, an MS4 operator shall use any combination of storage, infiltration, filtering, or vegetative practices to reduce the impact of pollutants in storm water run-off on receiving waters. In addition to the combination of practices, the following requirements, shall be utilized:

(1) Infiltration practices will not be allowed in wellhead protection areas.

(2) Discharges from an MS4 area will not be allowed directly into sinkholes or fractured bedrock, without treatment that results in the discharge meeting Indiana ground water quality standards as referenced in 327 IAC 2-11.

(3) Any storm water practice that is a Class V injection well must ensure that the discharge from such practices meets Indiana ground water quality standards as referenced in 327 IAC 2-11.

(4) **As site conditions allow, the rate at which water flows through the MS4 conveyances shall be regulated to reduce outfall scouring and stream bank erosion.**

(5) As site conditions allow, a vegetated filter strip of appropriate width shall be maintained along unvegetated swales and ditches.

(6) **For** New retail gasoline outlets, new municipal, state, federal, or institutional refueling areas, or outlets and refueling areas that replace their existing tank systems, **they** shall be required by MS4 ordinance or other regulatory means to design and install appropriate practices to reduce lead, copper, zinc, and polyaromatic hydrocarbons in storm water run-off.

(d) MS4 area personnel responsible for plan review, inspection, and enforcement of **postconstruction** BMPs shall attend, at a minimum, an annual training session addressing appropriate control measures, which has been approved of by the department and the department of natural resources, division of soil conservation.

(e) An MS4 operator shall develop and implement a written operational and maintenance plan for all storm water structural BMPs. A **state-issued** certification form that combines the completed requirements of this subsection and subsection (b) shall be completed and submitted to the department once the plan has been developed and implemented, or seven hundred thirty (730) days from the date of NOI letter submittal, whichever is **shorter earlier**.

(f) An MS4 operator shall develop measurable goals for this measure. To comply with this measure, specific reduction percentages and timetables must be identified. At a minimum, goals must address relevant regulatory mechanism implementation, planning and structural BMP strategies, new impervious surface reduction, and discharge quality improvement. (*Water Pollution Control Board; 327 IAC 15-13-16*)

327 IAC 15-13-17 Storm water quality management plan municipal operations pollution prevention and good housekeeping MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 17. (a) An MS4 operator shall develop a SWQMP that includes a commitment to develop and implement a program to prevent or reduce pollutant run-off from municipal operations within the MS4 area.

(b) To the extent of their authority, an MS4 operator shall develop and implement a program to ensure that existing municipal, state or federal operations are performed in ways that will reduce contamination of storm water discharges. A ~~state-issued~~ certification form must be completed and submitted to the department once the program has been developed and implemented, or three hundred sixty-five (365) days from the date of NOI letter submittal, whichever is ~~shorter~~ **earlier**. This program must include the following:

(1) Written documentation of maintenance activities, maintenance schedules, and long term inspection procedures for BMPs to reduce floatables and other pollutants discharged from the separate storm sewers. Maintenance activities shall include, as appropriate, the following:

- (A) Periodic litter pick up as defined in the MS4 area SWQMP.
- (B) Periodic BMP structure cleaning as defined in the MS4 area SWQMP.
- (C) Periodic pavement sweeping as defined in the MS4 area SWQMP.
- (D) Roadside shoulder and ditch stabilization.
- (E) Planting and proper care of roadside vegetation.
- (F) Remediation of outfall scouring conditions.

(2) Controls for reducing or eliminating the discharge of pollutants from operational areas, including roads, parking lots, maintenance and storage yards, and waste transfer stations. Appropriate controls shall include the following:

- (A) Covering, or otherwise reducing the potential for polluted storm water run-off from, deicing salt or sand storage piles.
- (B) Establishing designated snow disposal areas that have minimal potential for pollutant run-off impact on MS4 area receiving waters.
- (C) Providing facilities for containment of any accidental losses of concentrated solutions, acids, alkalies, salts, oils, or other polluting materials.
- (D) Standard operating procedures for spill prevention and clean up during fueling operations.
- (E) BMPs for vehicular maintenance areas.
- (F) Prohibition of equipment or vehicle wash waters and concrete or asphalt hydrodemolition waste waters into storm water run-off, except under the allowance of an appropriate NPDES wastewater permit.

(G) Promotion of recycling (to reduce litter).

(H) Minimization of pesticide, herbicide and fertilizer use. Pesticides shall be used, applied, handled, stored, mixed, loaded, transported, and disposed of via office of the Indiana state chemist's guidance requirements.

(I) Proper disposal of animal waste. Canine parks shall be sited at least one hundred fifty (150) feet away from a surface water body.

(3) Written procedures for the proper disposal of waste **or materials** removed from separate storm sewer systems and operational areas. All materials removed from separate storm sewer systems and operational areas, including dredge spoil, accumulated sediments, floatables, and debris, must be:

(A) Reused or recycled; or

(B) Disposed of in accordance with applicable solid waste disposal regulations.

(4) Written documentation that new flood management projects are assessed for their impacts on water quality and existing flood management projects are examined for incorporation of additional water quality protection devices or practices.

(5) Written documentation that appropriate entity employees have been properly trained, with periodic refresher sessions, on topics such as proper disposal of hazardous wastes, vegetative waste handling, fertilizer, herbicide and pesticide application, and the function of implemented BMPs.

(c) An MS4 operator shall develop measurable goals for this **measure MCM**. To comply with this measure, specific reduction percentages and timetables must be identified. As applicable or, if not applicable, then appropriately justified, goals must address relevant catch basin cleaning and street sweeping procedures, employee training, recycling program implementation, pesticide, herbicide, fertilizer and sand or salt usage reductions, floatables reduction, and maintenance schedule for BMPs.

(d) In combined sewer system municipalities designated under this rule, the current **SR CER**, CSOOP, and LTCP will need to be reviewed, and any necessary additions must be included in the plans to ensure that this MCM requirement is met. (*Water Pollution Control Board; 327 IAC 15-13-17*)

327 IAC 15-13-18 Reporting requirements

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 18. (a) An MS4 operator regulated under this rule shall submit a **state-issued annual report form** to the department, **at the address specified in section 9(b) of this rule, containing all related activities to implementing the requirements of this rule during the previous year. These activities must include** which contains the following information:

- (1) Progress towards development, implementation, and enforcement of all MCMs, including updated programmatic indicator data.
- (2) Summary of complaints received and follow-up investigation results related to storm water quality issues.
- (3) Updated measurable goals.
- (4) Storm water BMPs installed or initiated.
- (5) Follow-up water quality characterization.
- (6) Updated active industrial facilities list.
- (7) Implementation problems encountered, including BMP changes due to ineffectiveness or infeasibility.
- (8) Funding sources and expenditures.
- (9) Changes to MS4 area boundaries, including land areas added to the MS4 area via annexation or other similar means.

(9)(10) Identified storm water quality improvement projects.

Reports shall be postmarked no later than February 28 of the following year for the first five (5)-year permit term. In subsequent permit terms, reports must be submitted in year years two (2) and four (4).

(b) An MS4 operator shall submit a monthly construction site project summary to the department, ~~at the address specified in section 9(b) of this rule,~~ containing a listing of all project names associated with section 15 of this rule, the project address, project duration, and an indication of enforcement actions undertaken. If no projects occur within a given month, a report does not need to be submitted. Reports must be postmarked no later than the thirtieth last day of the following month.

(c) The summary required under subsection (b) must address those projects for which there has been an:

- (1) An NOI letter submittal, or its equivalent, to the MS4 entity; or
- (2) A Notice of Termination letter, or its equivalent, processed by the MS4 entity.

(d) An MS4 operator shall certify by signature on the ~~state-issued~~ annual report form that information provided is true and accurate. (*Water Pollution Control Board; 327 IAC 15-13-18*)

327 IAC 15-13-19 Permit duration

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 19. (a) The permits under this rule are valid for five (5) years, from the date the NOI letter was received by the department. **Reapplication** **Renewal application** for **this** **the** permit is required **a minimum of at least** sixty (60) days prior to the expiration date.

(b) If entity conditions change within an MS4 area, written notification of the changes must be submitted to the commissioner.

(c) For a complete **reapplication** **renewal application** to be sufficient, a new NOI letter and SWQMP-Part A: Initial Application must be submitted in accordance with sections 6 and 9 of this rule.

(d) Permits may be reissued on a watershed basis, to take into account surface water quality monitoring strategies and sampling data analyses for individual drainage areas; **or to reduce the administrative burden on the department of processing permit submittals.**

(e) Subsequent permits will require the MS4 operator to maintain and, where possible, improve their performance in implementing the six (6) MCMs. (*Water Pollution Control Board; 327 IAC 15-13-19*)

327 IAC 15-13-20 Permit termination

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 20. An NOT letter may be issued by the commissioner if:

- (1) the MS4 operator requests that, based on physical changes in the MS4 area, **such as, no outfalls**, the permit is no longer needed;
- (2) the MS4 operator requests that, based on a lack of cooperation between MS4 entities, a new general permit NOI letter is needed;
- (3) effluent standards and limitations are promulgated for discharges subject to this rule; or
- (4) it is determined that a general permit is not adequate to protect water quality. **If a general permit is not adequate, an individual NPDES permit will be issued.**

(*Water Pollution Control Board; 327 IAC 15-13-20*)

327 IAC 15-13-21 Standard conditions

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-14-10; IC 13-18-4; IC 13-30

Sec. 21. The standard conditions for NPDES general **permit rules** **permits** under **327 IAC 15-4** apply to this rule. (*Water Pollution Control Board; 327 IAC 15-13-21*)

SECTION 23. 327 IAC 15-13-22 IS ADDED AS FOLLOWS:

327 IAC 15-13-22 Inspection and enforcement

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-14-10; IC 13-18-4; IC 13-30

Sec. 22. (a) The commissioner may inspect an MS4 entity regulated under this rule at any time. Any documentation required in sections 6 through 20 of this rule, or related to implementation of this rule must be available at the physical address corresponding to the MS4 operator for review by the commissioner during normal business hours.

(b) At a minimum, records shall be established and maintained at the address referenced in subsection (a) of this section for the five (5) years of the permit term. The five (5) year period will be extended:

(1) automatically during the course of any unresolved litigation regarding the discharge of pollutants by the MS4 operator, or other entity regulated by the MS4 area permit, or regarding promulgated effluent guidelines applicable to the MS4

area;
or

(2) as requested by the regional administrator of United States Environmental Protection Agency, or commissioner.

(c) The commissioner may request data to facilitate the identification or quantification of pollutants that may be released to the environment from an MS4 conveyance, or to determine effectiveness of the MCMs.

(d) As it pertains to sections 15 and 16 of this rule, the department of natural resources, division of soil conservation staff, or their designated representative, upon providing appropriate credentials, may inspect an MS4 entity regulated under this rule at any time. Record keeping and reporting requirements for sections 15 and 16 of this rule shall conform to 327 IAC 15-5.

(e) All persons or entities responsible for the MS4 conveyances shall be responsible for complying with the SWQMP for the MS4 area and the provisions of this rule. Any person or entity causing or contributing to a violation of any provisions of this rule shall be subject to enforcement and penalty under IC 13-30 and IC 13-14-10.

(f) All projects within an MS4 area meeting the applicability requirements of 327 IAC 15-5 are subject to inspection and enforcement by IDEM or their designated representative for violations associated with 327 IAC 15-5. (*Water Pollution Control Board; 327 IAC 15-13-22*)